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 9 IN THE UNITED STATES DISTRICT COURTS
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA
 11 AND THE NORTHERN DISTRICT OF CALIFORNIA
 12 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
 13 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

14 **RALPH COLEMAN, et al.,**
 15
 Plaintiffs,
 16
 17 v.
 18 **EDMUND G. BROWN JR., et al.,**
 19 Defendants.

2:90-cv-00520 KJM-DB

THREE-JUDGE COURT

20 **MARCIANO PLATA, et al.,**
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 Plaintiffs,
 22
 23 v.
 24 **EDMUND G. BROWN JR., et al.,**
 25 Defendants.

C01-1351 JST

THREE-JUDGE COURT

**DEFENDANTS' MAY 2018 STATUS
 REPORT IN RESPONSE TO FEBRUARY
 10, 2014 ORDER**

1 The State submits this status report on the current in-state and out-of-state adult prison
 2 populations and the measures being taken to comply with the Court's February 10, 2014 Order
 3 Granting in Part and Denying in Part Defendants' Request for Extension of December 31, 2013
 4 Deadline (February 10, 2014 Order). Exhibit A sets forth the current design bed capacity,
 5 population, and population as a percentage of design bed capacity for each state prison and for all
 6 state prisons combined. Exhibit B sets forth the status of the measures Defendants have
 7 implemented as required by the February 10, 2014 Order. (ECF 2766/5060 at ¶¶ 4-5.)

8 As of May 9, 2018, 114,618 inmates were housed in the State's 34 adult institutions and
 9 3,553 inmates were housed in out-of-state facilities.¹ (Ex. A.) The State's prison population is
 10 approximately 134.7% of design capacity. (Ex. A.)

11
 12 Dated: May 15, 2018

XAVIER BECERRA
 Attorney General of California

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 14 By: /s/ *Maneesh Sharma*
 MANEESH SHARMA
 Deputy Attorney General
 Attorneys for Defendants

15
 16 Dated: May 15, 2018

HANSON BRIDGETT LLP

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 18 By: /s/ *Paul B. Mello*
 PAUL B. MELLO
 Attorneys for Defendants

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¹ The data in Exhibit A is taken from CDCR's May 9, 2018 weekly population report, available on CDCR's Web site at http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Population_Reports.html.

Exhibit A

Population as of May 9, 2018

Institution	Design Capacity	Actual Population	Population as % of design capacity
Total housed in adult institutions ¹	85,083	114,618	134.7%
Total housed in camps		3,553	
Total housed out of state		3,261	
Individual CDCR Institutions - Men			
Avenal State Prison	2,920	4,280	146.6%
California State Prison, Calipatria	2,308	3,627	157.1%
California Correctional Center*	3,883	4,610	118.7%
California Correctional Institution	2,783	3,256	117.0%
California State Prison, Centinela	2,308	3,369	146.0%
California Health Care Facility, Stockton	2,951	2,671	90.5%
California Institution for Men	2,976	3,529	118.6%
California Men's Colony	3,838	3,811	99.3%
California Medical Facility	2,361	2,404	101.8%
California State Prison, Corcoran	3,116	3,209	103.0%
California Rehabilitation Center	2,491	2,436	97.8%
Correctional Training Facility	3,312	5,320	160.6%
Chuckawalla Valley State Prison	1,738	3,025	174.1%
Deuel Vocational Institution	1,681	2,174	129.3%
Folsom State Prison	2,066	2,389	115.6%
High Desert State Prison	2,324	3,493	150.3%
Ironwood State Prison	2,200	2,923	132.9%
Kern Valley State Prison	2,448	3,426	140.0%
California State Prison, Los Angeles	2,300	3,179	138.2%
Mule Creek State Prison	3,284	4,234	128.9%
North Kern State Prison	2,694	4,591	170.4%
Pelican Bay State Prison	2,380	2,705	113.7%
Pleasant Valley State Prison	2,308	2,882	124.9%
RJ Donovan Correctional Facility	2,992	3,843	128.4%
California State Prison, Sacramento	1,828	2,166	118.5%
California Substance Abuse Treatment Facility, Corcoran	3,424	6,029	176.1%
Sierra Conservation Center*	3,936	4,218	107.2%
California State Prison, Solano	2,610	3,920	150.2%
California State Prison, San Quentin	3,082	3,677	119.3%
Salinas Valley State Prison	2,452	3,347	136.5%
Valley State Prison	1,980	3,478	175.7%
Wasco State Prison	2,984	4,767	159.8%
Individual CDCR Institutions - Women			
Central California Women's Facility	2,004	2,956	147.5%
California Institution for Women*	1,398	1,814	129.8%
Folsom Women's Facility	403	413	102.5%

* The individual Design Capacity and Actual Population figures for California Correctional Center, Sierra Conservation Center and California Institution for Women include persons housed in camps. This population is excluded from the "Total housed in adult institutions" included on Exhibit A.

¹ The "Actual Population" includes inmates housed in medical and mental health inpatient beds located within Correctional Treatment Centers, General Acute Care Hospitals, Outpatient Housing Units, and Skilled Nursing Facilities at the State's 34 institutions. Many of those beds are not captured in "Design Capacity".

Source - May 9, 2018 Weekly Population Report, available at:

http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Population_Reports.html.

Exhibit B

OFFICE OF LEGAL AFFAIRS

Patrick R. McKinney II
General Counsel
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Sacramento, CA 94283-0001



May 15, 2018

Paul Mello
Hanson Bridgett
1676 N. California Blvd., Suite 620
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Dear Mr. Mello:

Attached please find the California Department of Corrections and Rehabilitation's May 2018 Status Update for the Three-Judge Court proceeding.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. McKinney II".

PATRICK R. MCKINNEY II
General Counsel, Office of Legal Affairs
California Department of Corrections and Rehabilitation

Attachments



MAY 15, 2018 UPDATE TO THE THREE-JUDGE COURT

On February 10, 2014, the Three-Judge Court extended the deadline to achieve the court-ordered reduction in the in-state adult institution population to 137.5% of design capacity to February 28, 2016. (ECF Nos. 2766/5060 & 2767/5061.) This report is CDCR's 52nd report submitted since the Court issued its population-reduction order, and the 40th report submitted since February 2015, when Defendants informed the Court that the population was below the court-ordered reduction. (ECF No. 2838/5278, filed February 17, 2015.) It has now been more than three years since Defendants have been in full compliance with the population-reduction order. As of May 9, 2018, the State's prison population is 134.7% of design capacity.

A. Update on durability:

As previously reported, Proposition 57, the State's durable remedy that enacts many of the Court-ordered reforms as well as expands credit earning increases and opportunities, was approved by voters in November 2016. As a result of Proposition 57, the addition of infill capacity, and several prior measures, Defendants have been able to reduce the number of inmates housed in out-of-state facilities by over 5,000 while maintaining full compliance with the population-reduction order.

On May 1, 2018, final regulations for Proposition 57 were approved and made permanent. The final regulations can be found at:

https://www.cdcr.ca.gov/Regulations/Adult_Operations/docs/NCDR/2017NCR/17-05/Adopted-Regulations-Effective-May-1-2018.pdf.

The regulations include:

1. Increased credit earning opportunities for all inmates except the condemned and those serving life without parole.

1,642 inmates released in April earned credit authorized by Proposition 57 towards their advanced release date. These inmates earned an estimated average of 108.3 days of additional credit.¹

2. Proposition 57's nonviolent offender parole process.

CDCR began referring inmates to the Board for this process on July 1, 2017, pursuant to the emergency regulations promulgated on April 13, 2017. From July 1, 2017 through April 30, 2018, 5,794 referrals were made to the Board (including 458 inmates who had previously been referred to the Board under the nonviolent second-striker parole consideration process, but were eligible for an earlier review under the nonviolent

¹ This number does not include inmates released from fire camps.

offender parole process). As of April 30, 2018, 4,601 referrals have been reviewed on the merits, with 947 inmates approved for release and 3,654 denied. Many referrals are pending review, including the 30-day period for written input from inmates, victims, and prosecutors and the Board's jurisdictional review process.

As stated above, permanent regulations implementing the Proposition 57 nonviolent offender parole process were approved on May 1, 2018. The permanent regulations include several substantive amendments to the nonviolent offender parole process, including the following:

- Changing the legal standard the Board applies when determining whether to approve an inmate for release from “unreasonable risk of violence to the community” to “current, unreasonable risk of violence or current, unreasonable risk of significant criminal activity.”
- Requiring the Board to approve a nonviolent offender's release if factors aggravating the inmate's risk do not exist or if they are outweighed by factors mitigating the inmate's risk.
- Specifying factors that aggravate and mitigate an inmate's risk.
- Expressly requiring the Board to take into account the relevance of information reviewed based on the passage of time, the inmate's age, and the inmate's physical and cognitive limitations, if any.
- Bifurcating the Board's jurisdictional review from its review on the merits so the Board will not send notices to victims and prosecutors until after determining it has jurisdiction to consider the inmate for release.
- Expressly authorizing the Board to review nonviolent offender parole decisions on its own motion, when there is an error of fact, and error of law or new information that would have materially impacted the prior decision had it been known at the time the decision was issued.
- Requiring that all notices be served on inmates and within established timeframes throughout the process.

B. Update on Other Measures Defendants Continue to Implement:

1. Contracting for additional in-state capacity in county jails, community correctional facilities, private prison(s), and reduction of out-of-state beds:

Defendants have reduced the population in CDCR's 34 institutions by transferring inmates to in-state facilities.

a. Private Prison (California City):

The current population of California City is approximately 2,291 inmates.

- b. Community correctional facilities (CCFs) and modified community correctional facilities (MCCFs):

The State currently has contracted for 4,218 MCCF beds that are in various stages of activation and transfer.

- c. County jails:

The State continues to evaluate the need for additional in-state jail bed contracts to house CDCR inmates.

- d. Reduction of inmates housed out-of-state:

On February 10, 2014, the Court ordered Defendants to “explore ways to attempt to reduce the number of inmates housed in out-of-state facilities to the extent feasible.” Since that time, the State has reduced the out-of-state inmate population to 3,261, including reducing the Mississippi facility to approximately 400 inmates, and has closed the Oklahoma out-of-state facility.

- 2. Parole determination process whereby nonviolent second-strikers will be eligible for parole consideration by the Board once having served 50% of their sentence:

As authorized by the Court’s June 20, 2017 Order, Defendants stopped referring inmates to the Board for this parole process on June 30, 2017. From January 1, 2015 through June 30, 2017, 12,677 referrals were made to the Board for review. As of April 30, 2018, the Board processed all referrals received before July 1, 2017. The Board approved 4,576 inmates for release, denied release to 5,514 inmates, and 458 inmates were transitioned to the new nonviolent offender parole process because they were eligible for an earlier review under the new process. The remaining 2,129 referrals were either duplicate referrals or erroneously referred to Board, and have been administratively closed. As required by Proposition 57 and the Court’s June 20, 2017 Order, all inmates denied for release under this measure will be considered for referral under the nonviolent offender parole process annually.

- 3. Parole process for medically incapacitated inmates:

The State continues to work closely with the Receiver's Office to implement this measure. The Receiver’s Office is continuing to review inmates and is sending completed recommendations to CDCR. Recommendations received from the Receiver’s office are reviewed by DAI and referred to the Board for a hearing. As of May 9, 2018, the Board has held 124 medical parole hearings under the revised procedures. An additional 29 were scheduled, but were postponed, continued, or cancelled.

- 4. Parole process for inmates 60 years of age or older having served at least 25 years:

The Board continues to schedule eligible inmates for hearings who were not already in the Board’s hearing cycle, including inmates sentenced to determinate terms. From February 11, 2014 through April 30, 2018, the Board held 2,657 hearings for inmates eligible for elderly parole, resulting in 703 grants, 1,731 denials, 223 stipulations to

unsuitability, and there currently are no split votes that require further review by the full Board. An additional 1,242 hearings were scheduled during this time period but were waived, postponed, continued, or cancelled.

As discussed in prior reports, the State enacted Assembly Bill 1448 on October 11, 2017, authorizing an elderly parole program for inmates age 60 or older who have served at least 25 years of incarceration. The State will continue to implement the Court-ordered elderly parole process until this matter is terminated or the February 10, 2014 Order is modified.

5. Reentry programs:

Contracts for the San Diego, San Francisco, Los Angeles, Kern County, and Butte County reentry programs are in place. The State continues to review and refer eligible inmates for placement consideration. As of May 9, 2018, 629 inmates are housed in reentry facilities.

6. Expanded alternative custody program:

The State's expanded alternative custody program for females, Custody to Community Transitional Reentry Program (CCTRP), provides female inmates with a range of rehabilitative services that assist with alcohol and drug recovery, employment, education, housing, family reunification, and social support. Female inmates in the CCTRP are housed at facilities located in San Diego, Santa Fe Springs (LA), Bakersfield, and Stockton. As of May 9, 2018, 345 female inmates are participating in the CCTRP.